

Department of Public Health
and Human Services

Section:
CASE MANAGEMENT

TANF CASH ASSISTANCE

Subject:
Board of Public Assistance Appeal and
Judicial Review

► **Supersedes:** TANF1506-4 (12/1/98), FMA and MA 1506-4 (12/1/98)

► **References:** ARM 37.5.331 and .334
ARM 37.78.101; ARM 37.78.102
42 CFR 431.200 through .246; 45 CFR 205.10;

► GENERAL RULE--Any party to a fair hearing who does not agree with the hearing decision may appeal the decision. The appeal must be presented to the Board of Public Assistance, hereafter referred to as the Board.

NOTE: If the party does not agree with the Board's final decision, they may seek judicial review of the decision.

► **APPEAL REQUEST**

A request to appeal the hearing decision must be received within 15 days of the date of mailing of the decision. If a request is not filed within the 15-day period, the decision becomes final unless the party can show that failure to appeal timely was for good cause (Section 1509-1). If the party shows good cause, the 15-day period is extended, but in no event shall the time period extend beyond 45 days.

1. The claimant and/or authorized representative is given an opportunity to:

- a. file exceptions;
- b. present briefs; and
- c. present oral arguments.

► 2. The Department is given an opportunity to appeal also. The Department is represented by the Office of Legal Affairs. The attorney will:

- a. file exceptions;
- b. present briefs; and
- c. present oral arguments.

► **CONTINUING BENEFITS**

Continue benefits, if appropriate, (Section 1506-1) until the end of the month in which an adverse determination by the Hearing Officer is proposed. If the claimant files a request for Board appeal within 15 days, continue benefits, if appropriate through the end of the month in which the final decision is reached by the Board.

► **BOARD** The Board will render a decision after considering:

Section: CASE MANAGEMENT

Subject: Board of Public Assistance Appeal
and Judicial Review**REVIEW**

1. the Fair Hearing Officer's Proposed Decision;
2. exceptions filed;
3. briefs received;
4. oral arguments; and
5. the hearing record.



The Board's decision must be made within ninety (90) days from the date of the original fair hearing request.

**► NOTICE OF
BOARD DECISION**

The Board will notify the following of its decision:

1. the claimant;
2. the local county office; and
3. any other interested party.



NOTE: The claimant and any other party will also receive notification of the right to Judicial Review.

**IMPLEMENTING
DECISION**

If the Board's decision is:

1. favorable to the claimant, within ten (10) days, the OPA must take action to correct any under issuance/payment of benefits; or
2. favorable to the Department, within ten (10) days, the OPA must take the appropriate action to recover the amount of any benefits received and/or impose the adverse action.

NOTE: If the claimant seeks judicial review, suspend recovery of benefits pending the outcome of the judicial review.

**JUDICIAL
REVIEW**

A party to an appeal who does not agree with the Board's final decision may seek judicial review of that decision. The party must file a petition in the district court within thirty (30) days after receipt of the Board's final decision notice.



NOTE: A "party to an appeal" includes the claimant or authorized representative, a real party in interest, or the Department.

NOTE: Do not continue benefits to the claimant during the judicial review except by court order.

DB/KQ/NC/CC

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